

The regular monthly meeting of the Erie County Board of Elections was called to order by Board Member William Monaghan on Tuesday, August 31, 2021 at 8:30 a.m.

Roll Call:	(D) Thomas M. Ferrell, Chairman	Absent (excused)
	(D) William J. Monaghan, Member	Present
	(R) Nicholas J. Smith, Member	Present
	(R) Jeffrey N. Krabill, Member	Present

Guests in attendance: Sue Brown and Gery Gross from Prosecutor's Office, Rachel Mullen from Secretary of State's Office, Amy Grubbe, and Diane Schaefer

Motion to approve the minutes from the last two board meetings (July 23 and August 12) was made by Mr. Krabill, seconded by Mr. Smith. Motion carried.

Motion to pay the bills was made by Mr. Krabill, seconded by Mr. Smith. Motion carried. Mr. Krabill stated that one of the bills listed was the board members' salaries. He asked if there was any conflict with him making a motion to approve his own pay. Mr. Gross stated that he could abstain from voting. Mr. Krabill stated that if he abstains, then there are only two votes. Also, the other board members would have to abstain as well. Mr. Smith stated he didn't know why we would have to vote to pay our own salaries since it's statutory. Mr. Krabill stated it just seems odd to him that he's voting to approve his own pay. Mr. Monaghan stated we might want to leave that off the list of bills. Lori Salyers, Director, stated she was just following her predecessor's lead, but she can leave it off if the board wants. Mr. Gross stated that he withdraws his previous remark. He has not looked into the situation and whether the salaries for board members are statutory or not. Mr. Monaghan stated that he could check and let us know at the next meeting.

Next on the agenda was discussion of an alleged campaign finance violation. Adrienne James, Deputy Director, explained that someone from Kelleys Island called with a complaint regarding activity that took place in the fall of 2019. Three Kelleys Island Village Council Members wrote a letter to the Kelleys Island voters, urging them to vote a particular way on a ballot issue. However, the council members did not form a PAC, and the letter did not indicate who paid for it. The voter who called was concerned, because the council members were doing activity to influence the election, but they did not form a PAC and did not file campaign finance reports. Ms. James stated that she spoke to Mr. Krabill on the issue, who asked her to email Mr. Gross.

Mr. Gross stated that he did not have a chance to look at the email, because he has been very busy lately with depositions. Mr. Gross also mentioned a former candidate for Sandusky City Commission who refused to turn in campaign finance reports, and there was virtually no penalty; he was only fined \$50.

Eliza Link, Clerk, stated that she wasn't sure how our office would refer the council members to the Ohio Elections Commission, because the council members do not have a PAC on file with us. Ms. James stated that the individual who made the complaint emailed us a copy of the letter, and she put a copy in the board members' folders.

Mr. Krabill stated that at this point it's a bit moot because the letter is two years old. However, he thinks this brings up a good question, because he has seen sitting members of a body send out letters concerning an issue before. He thinks it will happen again at some point, and this is a good question to be answered, but there is nothing pressing right now.

Mr. Smith pointed out that the letter was not written on official Kelleys Island Village Council letterhead. Mr. Gross confirmed this was true. He also stated that the letter might not be an official act of council. Three individuals under the first amendment are entitled to opine any way they want. If this is an official act of council, that would be one issue. If it's not an official act of council, and it's just three individuals, then clearly there's no problem with that. Mr. Smith commented that every person who writes a letter to the editor is affecting an election. That doesn't mean that they're a PAC.

Mr. Monaghan asked if this was an issue for the board. Mr. Gross replied that the prosecutor's office does not answer legal questions for the public. If their client, the Board of Elections, has an obligation to answer this question, then that would impact their position.

Mr. Krabill stated he thinks we have to be careful here with our answer. If it's purely a first amendment issue and anyone can send out a letter expressing their opinion, then that really opens things up as far as Ohio law is concerned. If it just becomes the wild-west, anybody can do anything. That's going to turn the practice of this office and the Secretary of State's office on its head.

Mr. Monaghan asked if anyone on the board thinks we need to take action. Mr. Krabill stated that there's no action to take today, but we should look in to it. Ms. Link stated that we could contact the SOS office. Mr. Smith agreed with this, and stated that we should not put this on Gery or Sue's desk, because they're very busy.

Next, Ms. Salyers talked about closing the office for Christmas vacation. Staff would like to be off starting December 24, and off the week of Christmas. Staff would return the first Monday in January, which is January 3. Ms. James stated that a recent "weekly reminders" email stated that petitions may be sent out December 27, and that staff would have five days to check them. Therefore, we might have to be open during that time, just to finish checking petitions. Motion to close December 24 and the week of Christmas, but to re-open immediately if there is an issue such as petitions that needs to be addressed, was made by Mr. Smith, and seconded by Mr. Krabill. Motion carried.

Next, Ms. Link asked the board members about hiring poll workers. Some people are signing up on the SOS website to be poll workers, but they are new to the county and therefore unaffiliated. However, they were registered and affiliated in other Ohio counties. Would it be okay for staff to hire these people as poll workers?

Mr. Smith stated that we should try to strike a balance of equal number of Republicans and Democrats. As long as it's equal, he doesn't have a problem with hiring people who are unaffiliated in Erie County, but affiliated elsewhere in the state of Ohio. Mr. Krabill agreed, and stated we should try to keep a balance.

Next, Ms. James talked about rate of pay for private polling locations, janitors, and poll workers. She reminded the board that in 2020, they voted to increase rate of pay due to covid-19. Pay for private polling locations went from \$20 a precinct to \$50 a precinct. Pay for janitors went from \$10 a precinct to \$20 a precinct. Finally, pay for poll workers increased by \$15, so long as they worked the full day. The board voted to maintain these pay increases for the May 2021 election, and staff would like to continue to maintain those rates of pay for this November's election. Ms. James also stated that when she and Ms. Salyers did budget estimates earlier this year, they factored in these pay increases, and there is enough money in the budget.

Mr. Monaghan stated that with the delta variant of covid, he thinks we should maintain these rates of pay. Mr. Smith stated he would agree with that assessment. He also asked how we were doing with PPE. Ms. Salyers stated that we have plenty. Mr. Krabill stated that he was comfortable with maintaining the pay rates, particularly since it's already part of the budget. He then moved to continue the practice. Mr. Smith seconded. Motion carried.

Mr. Krabill then asked how the office was doing on hiring poll workers. Ms. Salyers stated that she was getting a lot of no's, but she hasn't made as many phone calls as the others, because she has had other tasks to complete. Mr. Smith suggested contacting the Sandusky Register to write an article about the need for poll workers. He also suggested contacting the county party chairs.

Next, Ms. Salyers spoke on the situation at the Ohio Veterans House. Because of the delta variant, they are not willing to host us as a polling location. Instead, the plan is to set up the OVH precinct in the basement of our building, and have most of the residents vote absentee. Naomi Twine from the OVH was in the office several weeks ago, and we gave her a stack of absentee ballot applications for the residents, which she will circulate. Motion to accept this plan was made by Mr. Krabill, seconded by Mr. Smith. Motion carried.

Next on the agenda was a discussion of the Vermilion Veterans Field House polling location. Kimberly Barnum, Clerk, stated that she had some complaints from poll workers who work at the Field House. They stated that traffic flow is not conducive to reaching the polling location, especially when the kids are coming to and leaving school. Some of the poll workers wanted to know if we could move that voting area to the fire station.

Mr. Smith confirmed that the field house is not a good location, especially in the morning with school busses arriving. Also, traffic can only go in one direction. Mr. Smith suggested contacting the Vermilion mayor to see if we could use the fire station in the future. Ms. Salyers stated that she could do that. She also stated that if we do go there, we will have to visit the fire station to make sure it is ADA accessible. Ms. Link reminded the board members of the timeline, and that we would need to send postcards to the voters in those precincts if we decide to move.

Mr. Smith stated that if we do move to the Vermilion Fire Station, we don't want the same situation we ran into at the Sandusky Fire Station last fall. The Sandusky Fire Station would not allow poll workers to use the restrooms inside, and instead made them use an outdoor portable toilet. Ms. Salyers stated that she checked with the Sandusky Fire Station, and the reason for this was because eight firefighters had covid last fall, and the station did not want the poll workers to catch it. That was the only reason they made the workers use the portable toilets.

Next, Ms. Salyers gave an update on Columbus Day. Last year, we had to be open for Columbus Day, but according to the SOS office, this year we will be closed on Columbus Day. Ms. Salyers also gave an update on chargebacks from the May election. We did receive all the chargeback money we were expecting. She sent a letter to the finance department, asking them to put a certain amount of the money in the part-timers account, and a certain amount of the money in contract services, which is the account we use to pay poll workers. Because of this, we should have enough money to pay poll workers this fall. Ms. Salyers also stated that she was being very cautious with scheduling part-timers for this election, and ensuring they are not working overtime. She is also staggering the schedules of full-time staff so that we do not accumulate so much comp time. Finally, Ms. Salyers reminded the board that, although we did receive the chargeback money from the May election, we will not be receiving chargeback money from this upcoming November election. The county will be receiving that money.

Mr. Monaghan then asked if there were any other matters to come before the board. Ms. James stated that a voter, Ruthann T. Jones, filed to be a write-in candidate for Sandusky City Commission. She filed before the write-in deadline, which was August 23 at 4 p.m. She also never turned in actual petitions. Ms. James emailed the law director for the city of Sandusky, who said that write-in candidates for city commission were okay. Mr. Smith asked if the candidate needed any signatures, and Ms. James stated she did not. The board took a few moments to look over the write-in candidate paperwork. Motion to certify Ruthann T. Jones as a write-in candidate for Sandusky City Commission was made by Mr. Smith, seconded by Mr. Krabill. Motion carried.

Next, Mr. Monaghan spoke on the issue of the dropbox. He quoted an email that Mr. Krabill sent, which states that to put the dropbox where we want it "would be less expensive in total." Mr. Krabill also wrote that where the commissioners want the box "doesn't meet all ADA requirements. Ironically, the current location doesn't meet all ADA requirements either because of the ramp structure."

Mr. Monaghan then quoted the second paragraph of Mr. Krabill's email. Regarding pursuing independent legal counsel, Mr. Krabill wrote, "That is likely to be very expensive for Erie County taxpayers, and, in my opinion, isn't likely to be successful."

Mr. Monaghan stated that we want to move the dropbox so it's ADA accessible for everyone. Where the commissioners want to put it, it may be okay for some ADA, but not all ADA. Mr. Krabill responded, "I'm very well aware." Mr. Monaghan then quoted the latter half of Mr. Krabill's email, where he wrote, "The Commissioners own this property and have the final say on matters like these." Mr. Monaghan stated he thinks the courts would have a final say if we were to hire independent legal counsel. He then said he was not sure where the board stood on that issue.

Mr. Smith stated that he did not support hiring outside legal counsel. He doesn't think we have the money for it, and he is not interested. He said either we keep the box where it is, or we put the new box where the commissioners want it. Personally, he wanted it out by the parking lot islands. Mr. Smith then stated that "every mailbox is a dropbox." He stated that he doesn't think we're getting the best location, but there are certain things we can do to improve that location. For example, we could shut down traffic so it's only one way, or we could have some of the vehicles not park in the area so it's more accessible. Mr. Smith then reiterated that he does not support hiring outside legal counsel.

Mr. Monaghan replied that it is the cost of doing business. He stated it's our job to make sure the people in Erie County have the opportunity to cast their ballots. He also stated that we had Brett Harbage from the SOS office come to do an accessibility assessment, and he found that the location the commissioners want for the box is not ADA accessible. Mr. Smith stated that he read the report from Mr. Harbage. Nowhere in the report did he see that you can't do this. It said it wasn't the best location, but it didn't say we can't do this.

Ms. Link stated that if we put the box where the commissioners want it, we can't use HAVA funds because it is not ADA accessible. It was already more expensive to place the box where the commissioners want it, but now it will be even more expensive. Mr. Monaghan confirmed that it is less expensive if we put the box we want it. He also reiterated "the cost of doing business" in regards to hiring outside legal counsel.

Mr. Krabill stated that obviously, given his email, he's already given his opinion on this. He is not in favor of hiring outside legal counsel. He stated that it's a difficult situation to be in, but the commissioners own the property. He also stated that the commissioners have said they're willing to change the traffic flow to one way, and restrict some of the parking. Mr. Krabill thinks those are great and helpful concessions to make this a better situation. Ms. Link asked when the commissioners decided on those concessions. Mr. Krabill replied that they haven't taken any formal action, but they indicated to him that they'd be willing to do it.

Mr. Monaghan asked if Mr. Krabill wanted to make a motion that we not hire outside legal counsel. Mr. Krabill replied that he doesn't think he needs to make a negative motion.

Mr. Smith asked if we have spent HAVA money on the box. Ms. Salyers replied that yes, we have. Mr. Smith asked how much. Ms. Salyers replied that she was not sure and that she would have to look it up. She also reminded the board that if we put the box where the commissioners want it, we will have to refund the HAVA money that we spent on the box, and then spend our own money.

Mr. Smith then talked about how he would like to proceed. He does not think the new box will be placed for this election. Before we place it, he wants to know the exact amount of money to refund HAVA, and the exact amount it will cost us to place the box on the east side, where the commissioners want it. He also stated that we might have to ask the commissioners for money to place it there.

Mr. Monaghan stated that what he's hearing from Mr. Krabill is that if we place the dropbox halfway up the front step, then that's okay. We shouldn't hire an outside attorney because we don't have the money, and we should just leave the box where it's at. Mr. Krabill replied that he's not sure he understands that. He didn't say anything about the front step. Mr. Monaghan asked if any of the other board members wanted to make a motion not to hire outside counsel. Mr. Krabill replied that he just doesn't think you have to make a negative motion to not do something. He suggested to Mr. Monaghan that if he wants to hire outside counsel, he should make a motion to do so and then see if he receives a second. Mr. Monaghan then made a motion to hire an outside attorney to look at the ADA issues of the dropbox and talk with the county commissioners. No one seconded.

Ms. Brown then spoke about the possibility of modifications to make the east side more accessible. For example, if there is a problem with the curb, what minor construction can be done to fix it? She stated that she can't imagine that would be costly, and the commissioners may be receptive to that. Mr. Smith stated that was an option he would like to explore.

Mr. Monaghan stated that one of the problems we talked about earlier with putting the dropbox on the east side is that someone might accidentally place their ballot in the water department box. Mr. Gross stated that would become a chain of custody issue. Mr. Smith stated that there has to be a little bit of personal responsibility and accountability from the voter. He also mentioned how Huron County's dropbox is decorated red, white, and blue.

Mr. Krabill stated that he brought in some sample artwork for the box. He also stated that on the panel that is immediately under the handle on the box, it will say, "ballot here." Ms. Salyers expressed concern that someone would see that and think they couldn't place a voter registration form or absentee ballot application in there. Mr. Krabill replied that he could change the wording.

Mr. Monaghan then asked if there was anything else before we go into executive session. Ms. Salyers stated she had a question. She knows our motives for wanting the dropbox where we want it, but she wants to know the commissioners' motive for wanting it on the east side.

Mr. Monaghan then asked the guests in attendance to introduce themselves. The first guest was Rachel Mullen, the liaison from the SOS office. The other two guests were Amy Grubbe and Diane Schaefer. Ms. Schaefer stated that she had a question similar to Ms. Salyers: "What is the commissioners' reason for not wanting the box on the north side?" Ms. Grubbe then commented on how the north side location is cheaper, 100% ADA compliant, and safer. She stated that the ongoing dropbox issue was frustrating not just for staff, but for everyone else.

After comments from the guests, it was time to go into executive session for discussing security matters and personnel matters. The personnel matters were regarding benefits of an employee. Motion to go into executive session was made by Mr. Smith, seconded by Mr. Krabill. A roll call vote was taken.

Mr. Monaghan- yes.

Mr. Smith- yes.

Mr. Krabill- yes.

Motion carried. Board went into executive session at 9:20 a.m.

Motion to leave executive session and return to regular session was made by Mr. Smith, seconded by Mr. Krabill. Motion carried. Board returned to regular session at 9:50 a.m.

Ms. Salyers stated that we need to obtain cameras and motion detectors for the room in the OSU hallway and the “dungeon” where we store voting equipment. Mr. Smith asked if we had a quote from Accurate Business for that. Ms. Salyers stated that we did. Mr. Smith stated that he would move to accept that quote and have the cameras and motion detectors installed so that we are compliant. Mr. Krabill seconded the motion. Motion carried.

Motion to adjourn was made by Mr. Krabill, seconded by Mr. Smith. Motion carried. Board adjourned at 9:51 a.m.

Lori J. Salyers, Director

Attest:

Thomas M. Ferrell, Chairman